

**DURHAM, NORTH CAROLINA  
MONDAY, AUGUST 20, 2007  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read a proclamation recognizing Terry Rolan on his retirement effective September 1, 2007.

Council Member Stith read a proclamation designating August 20, 2007 as Durham Striders Track and Field Day. Dr. Brenda Armstrong and Frank Davis made comments.

Several members of Council made congratulatory remarks regarding The Durham Striders and thanked the parents and coaches for their hard work.

City Council Members made comments on the following events attended and special recognition of individuals, organizations, etc:

Council Member Woodard: Opening of newest Job Link facility at Antioch Baptist Church-- Economic and Workforce Development staff and John Avery Boys and Girls Club Celebration of Donors.

Council Member Woodard requested a Resolution Memorializing Dr. Marcus E. Hobbs for adoption at the August 23, 2007 Work Session.

Council Member Catotti: Reopening of Carolina Theatre and everyone involved with this project-- upcoming Gay and Lesbian Film Festival; and Pastor Ralph Thompson with Bethesda Baptist Church for recognizing Public Safety Appreciation Day.

Mayor Pro Tempore Cole-McFadden: Playground project at Birchwood Heights.

Council Member Clement: Equal Opportunity Equity Assurance Department on receiving the Minority Business Advocate of the Year Award from the U S Department of Commerce.

Mayor Bell: Equal Opportunity/Equity Assurance; North Carolina Institute of Minority Economic Development – Andrea Harris, and the Birchwood Heights project.

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Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk.

There were no priority items from the City Manager.

City Attorney Blinder requested a closed session after the meeting regarding an attorney-client consultation pursuant to GS 143-318-11(a) (3).

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to accept the City Attorney's priority item to hold a closed session after the meeting regarding an attorney-client consultation pursuant to GS 143-318-11(a) (3) was approved at 7:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

There were no priority items from the City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 9, 12, 13, 16 and 19 were pulled.

**MOTION** by Council Member Stith seconded by Council Member Woodard to approve the Consent Agenda as amended was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

#### **[CONSENT AGENDA]**

#### **SUBJECT: CITIZENS ADVISORY COMMITTEE – RECEIPT AND ACCEPTANCE OF APPLICATIONS**

**MOTION** by Council Member Stith seconded by Council Member Woodard to receive and accept applications for citizens to fill three (3) vacancies on the Citizens Advisory Committee with terms to expire on June 30, 2008 and June 30, 2010 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

#### **SUBJECT: RECREATION ADVISORY COMMISSION - APPOINTMENTS**

**MOTION** by Council Member Stith seconded by Council Member Woodard to reappoint Destry Jordan (term expires August 8, 2010) and to appoint Susan Kirk (term expires August 8, 2010), Hope L. Murdock (term expires August 8, 2009) and Linwood Webster (term expires August 8, 2008) to the Recreation Advisory Commission was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: DURHAM CIVIC CENTER AUTHORITY - APPOINTMENT**

**MOTION** by Council Member Stith seconded by Council Member Woodard to appoint Robert Sinclair to the Durham Civic Center Authority with the term to expire on July 31, 2010 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: HUMAN RELATIONS COMMISSION - APPOINTMENT**

**MOTION** by Council Member Stith seconded by Council Member Woodard to appoint Steve Benkin to the Human Relations Commission for a Non-Minority Male vacancy with the term to expire on June 30, 2010 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN – CARACO – MIAMI BOULEVARD (D05-365)**

**MOTION** by Council Member Stith seconded by Council Member Woodard to approve a major site plan for “Caraco – Miami Boulevard,” submitted by Duane Stewart & Associates on behalf of M.M. Fowler, Inc., for a 3,200 square foot convenience store with gasoline sales, a single-bay automatic carwash, and a landscape variation for a 12.5-foot (50%) buffer reduction on a 2.489 acre site zoned CN--the property is located at 2219 South Miami Boulevard, at the northeast corner of South Miami Boulevard and Ambassador Drive, PIN 0749-02-76-1456 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: MAJOR SITE PLAN – NORTHGATE PARK RENOVATIONS (D07-144)**

**MOTION** by Council Member Stith seconded by Council Member Woodard to approve a major site plan for “Northgate Park Renovations,” submitted by Cline Design on behalf of the City of Durham General Services Department, for the renovation of an 18.2 acre public park, including 38 motor vehicle parking spaces, on a site zoned RU-5. The applicant is requesting approvals of: (1) placement of parking within the floodway fringe, pursuant to section 8.4.4C.1, Development in Special Flood Hazard Areas (based on the parking in the floodplain replacing existing parking in the floodplain, with the new parking located to minimize the environmental impacts); (2) 1.32% (1,960 square feet) of development in the floodplain pursuant to Section 8.4.4C.2, Development in Special Flood Hazard Areas (based on the development providing a better balance between site efficiency and conservation than would be possible without the intrusion and that the proposed development is the minimum about necessary); (3) a landscape variation pursuant to Section 9.1.3A [Landscaping and Buffering] Variations to allow existing, healthy specimen trees spaced greater than 100 feet apart to count towards the street tree requirement;

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and (4) an alternative sidewalk location throughout the project pursuant to Section 12.4.3, Alternate Requirement (based on the alternate location having the same functionality as the conventional location with less disturbance of existing mature trees--the property is located at 300 West Club Boulevard, on the east side of West Lavender and Glendale Avenues, west side of Acadia Street, and north side of West Club Boulevard. PIN 0832-09-06-7612 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CAPITAL PROGRAM ADVISORY COMMITTEE QUARTERLY REPORT**

**MOTION** by Council Member Stith seconded by Council Member Woodard to receive the Quarterly Report from the Capital Program Advisory Committee for the period April - June 2007 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT WITH DURHAM AFFORDABLE HOUSING COALITION FOR TARGETED NEIGHBORHOOD REVITALIZATION ACTIVITIES**

**MOTION** by Council Member Stith seconded by Council Member Woodard to authorize the expenditure of 1996 housing bond program income in an amount not to exceed \$400,000.00;

To authorize the City Manager to execute a 18-month contract with Durham Affordable Housing Coalition to repair approximately 75 homes owned and occupied by LMI Durham residents and to undertake approximately 16 revitalization projects in targeted neighborhoods; and

To authorize the City Manager to make changes to the documents that do not increase the contract amount, lessen the contractor's duties or extend the term of the contract by more than an additional two months was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO CITY OF DURHAM AND STATE OF NORTH CAROLINA GRANT PROJECT ORDINANCE #13359**

**MOTION** by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to accept the State of North Carolina Department of Commerce Employment and Training funding by executing the grant documents; and

To adopt the City of Durham, North Carolina and the State of North Carolina Department of Commerce FY 2005-2007 Employment and Training Grant Project Ordinance superseding Grant Project Ordinance #13359 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell,

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Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13466**

**SUBJECT: PARKS LANDSCAPE MAINTENANCE CONTRACT AMENDMENTS - REALISCAPE, INC. - TRUGREEN LANDCARE**

**MOTION** by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to execute a contract amendment with Realiscape, Inc. to provide eight (8) additional mowings at three (3) designated City Parks with an estimated cost of \$5,800.00;

To authorize the City Manager to modify the agreement provided that the modifications are consistent with the general intent of the existing version of the agreement;

To authorize the City Manager to execute a contract amendment with TruGreen Landcare to provide eight (8) additional mowings at twelve (12) designated City Parks with an estimated cost of \$43,194.64; and

To authorize the City Manager to modify the agreement provided that the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: LEASE AMENDMENT FOR THE POLICE DEPARTMENT DISTRICT 2 SUBSTATION - NORTHGATE ASSOCIATES, LLLP**

**MOTION** by Council Member Stith seconded by Council Member Woodard to approve Amendment # 2 to the lease with Northgate Associates, LLLP; and

To authorize the City Manager to execute and make changes to the lease prior to execution provided such changes do not change the intent of the agenda memo or increase the monthly rental expenses was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: NORTH CAROLINA DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF GOVERNOR'S CRIME COMMISSION, 2ND YEAR FUNDING ON 2005 PSN GRANT**

**MOTION** by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to accept the North Carolina Department of Crime Control and Public Safety,

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Division of Governor's Crime Commission, 2nd year funding on 2005 PSN Grant by executing the grant documents; and

To adopt the North Carolina Department of Crime Control and Public Safety, Division of Governor's Crime Commission, 2nd year funding on 2005 PSN Grant Program Project Ordinance, superseding Grant Project Ordinance # 13445 in the amount of \$83,700.00 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13470**

**SUBJECT: NORTH CAROLINA DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF GOVERNOR'S CRIME COMMISSION, 2004 PSN GRANT**

**MOTION** by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to accept the North Carolina Department of Crime Control and Public Safety, Division of Governor's Crime Commission, 2004 PSN Grant by executing the grant documents; and

To adopt the North Carolina Department of Crime Control and Public Safety, Division of Governor's Crime Commission, 2004 PSN Grant Program Project Ordinance, superseding Grant Project Ordinance #13446 in the amount of \$61,150.00 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13471**

**SUBJECT: NORTH CAROLINA DEPARTMENT OF TRANSPORTATION UTILITY AGREEMENT U-4026 A & B DAVIS DRIVE**

**MOTION** by Council Member Stith seconded by Council Member Woodard to adopt a resolution to reimburse the North Carolina Department of Transportation;

To authorize the City Manager to execute a utility agreement for the relocation of utilities along the improvement and widening of Davis Drive (SR1613/1999) from the Wake/Durham County line to NC 54; and

To authorize the expenditure of \$493,756.00 from the Water Extensions and Improvements Account for the relocation of the utilities and establish a contingency fund in the amount of \$98,752.00 (20%) was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**Resolution #9491**

Council Member Clement noted he wanted to pull Item 19 instead of Item 16. At this time, a motion was made to approve Consent Agenda Item 16.

**SUBJECT: NORTH CAROLINA DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF GOVERNOR'S CRIME COMMISSION, 2006 CYBERCRIME GRANT**

**MOTION** by Council Member Stith seconded by Council Member Woodard to authorize the City Manager to accept the North Carolina Department of Crime Control and Public Safety, Division of Governor's Crime Commission, 2006 Cybercrime Grant by executing the grant documents; and

To adopt the North Carolina Department of Crime Control and Public Safety, Division of Governor's Crime Commission, 2006 Cybercrime Grant Program Project Ordinance, superseding Grant Project Ordinance #13360 in the amount of \$35,734.00 was approved at 7:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13469**

***Note: The City Council disposed of the following agenda items at the August 9, 2007 Work Session:***

**5. Beer and Wine Privilege License Issuance**

To approve local beer and wine privilege licenses for the listed establishments.

**Note: This item was deferred to the August 23, 2007 Work Session.**

**21. First Amendment to American Tobacco Agreement**

To conduct a public hearing to receive comments per GS 158-7.1;

To authorize the City Manager to execute the First Amendment to Development Agreement for American Tobacco; and

To authorize the City Manager to modify the contract provided that the modifications do not increase the dollar amount and the modifications are consistent with the general intent of the contract.

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**Note: This item was deferred to the September 4, 2007 City Council Meeting.**

**23. Renaissance Economic and Reinvestment (REAR)**

To receive comments from Alvis Aikens regarding revitalization and economic development.

**Note: Citizen did not appear at the 8/9/07 Work Session.**

**24. Afi Byrd**

To receive comments from Afi Byrd regarding female offender employment.

**Note: Comments were received at the 8/9/07 Work Session.**

**26. Dominion Ministries, Inc.**

To receive comments from Adrian Atkinson regarding surplus property.

**Note: Comments were received at the 8/9/07 Work Session.**

**27. Bull Durham Realty Association**

To receive comments from C. Douglas Fisher regarding water and sewer assessment.

**Note: Citizen did not appear at the 8/9/07 Work Session.**

**28. Dearcie Smith**

To receive comments from Dearcie Smith regarding sidewalks and curbs.

**Note: Citizen did not appear at the 8/9/07 Work Session.**

**29. Proposed Sale of Property at 520-A Eastway Avenue PIN# 831-10-45-6575**

To determine the property at 520-A Eastway Avenue as surplus;

To authorize the sale of the properties under the authority of Section 86 of the City Charter;

To accept the offer to purchase for the property located at 520-A Eastway Avenue; and



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To authorize the City Manager to sell and the Mayor to convey the properties by a non-warranty deed and authorize the City Manager to terminate these contracts for sale if the contract terms are not fulfilled.

**Note: This item was approved at the 8/9/07 Work Session with a vote of 5/0.**

**30. Paratransit Service Contract Option Periods**

To authorize the City Manager to exercise the two (2) one (1) year option periods denoted in and in accordance with the Contract between the City and Laidlaw Transit Services, Inc. that was approved by City Council on December 19, 2005.

**Note: This item was approved at the 8/9/07 Work Session with a vote of 5/0.**

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: RECISSION OF COUNCIL ACTION ON JUNE 4, 2007 – SALE OF  
PROPERTY AT 218 N. DILLARD STREET TO DOMINION  
MINISTRIES AND 308 ELLIOTT AND 410-426 N. ROXBORO  
STREETS TO HOUSING FOR NEW HOPE**

To rescind the motions approved on June 4, 2007 as follows: (1) authorizing acceptance of the offers from Dominion Ministries, Inc. to purchase 218 N. Dillard Street and from Housing for New Hope to purchase 308 Elliott Street and 410-426 N. Roxboro Street, and (2) authorizing the City Manager to sell and the Mayor to convey these properties; and

To authorize the City Manager to sell the property at 218 N. Dillard Street, 308 Elliott Street and 410-426 N. Roxboro Street using the upset bid procedure, G. S. 160A-269.

City Manager Baker provided the council with a memo dated August 17, 2007 regarding this matter. It was noted that on June 4, the City Council accepted offers from Dominion Ministries to purchase the property at 218 N. Dillard Street and Housing for New Hope to purchase property at 308 Elliott and 410-426 N. Roxboro Streets pursuant to the policy for disposing of surplus real estate to qualifying nonprofits for affordable housing based upon criteria for selecting properties to be sold by that policy. Since that time, Council was made aware that there was interest expressed in these properties from the general public which was not known prior to its vote on June 4, 2007 and this is believed to be relevant information. The administration recommended that council rescind its action on June 4, 2007. Also, they recommended that they commence with the notification and advertisement of the sale on September 7<sup>th</sup>. The process will last ten days and then the administration will advertise for an upset bid period which will also last ten days as well.

City Manager Baker also commented on the appraisal done for 218 N. Dillard Street [\$158,000] and due to conflicting information on the appraisal amounts for Elliott and the Roxboro properties, the manager requested staff to conduct another appraisal on these two properties.

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The following persons spoke in support of council's action taken at the June 4, 2007 meeting regarding the sale of properties to Housing for New Hope and Dominion Ministries: Terry Allebaugh representing Housing for New Hope, Dr. April Gilford and Marsha Gunter representing Dominion Ministries, Miguel Rubiera representing Habitat for Humanity and Chris Greene. These individuals asked the council not to rescind their action as recommended by the City Manager.

The following persons spoke in support of the manager's recommendation to rescind the action taken by council at its June 4, 2007 meeting: Adrian Adkinson, Frank Pokrass, Dolly Pokrass, Gary Kueber, Catherine Edgerton, Eleni Vlachos, Harris Carpenter, Natalie Spring, Faye Calhoun Broadwater, Bruce Mitchell, Scott Harmon, Muna Mujahid, Aidil Collins, Leslie Frost, Michael Bacon, Colin Crossam, and Keelee McPhee.

Council Member Brown commented on the city statutes concerning placement of social homes and requested that the manager analyze that section of the existing statutes and compare with the other three or four largest cities in the state and recommend a recommendation for change. He stated it was too many social homes concentrated in the Cleveland/Holloway neighborhood. Also, Council Member Brown commented on the remarks from the Executive Director for Habitat for Humanity regarding County of Durham selling several houses in the Cleveland/Holloway neighborhood to a speculator.

Council Member Stith made comments on the process being flawed and the reasons he voted against the policy last year due to exclusivity. Council Member Stith asked the manager if a planning process would be possible during the upset bid process.

City Manager Baker stated he would like to engage the neighborhood in the comprehensive planning process for the neighborhood, but his recommendation to rescind did not codify a comprehensive plan for the parcels in question. He stated the planning process for this area would take several months or even longer.

Council Member Catotti stated she wanted to clear up several questions one being the land is currently zoned; therefore, it would not go before the planning commission or the council for rezoning. She made comments on the city having surplus properties in certain locations. Council Member Catotti asked the City Attorney to address comments on essentially the use of properties that are acquired relative to community input.

City Attorney Blinder stated any community input on an open bid process would have to happen before the property is put out for bid and once it is put out for bid it is available for sale to whoever offers the highest price, and under the upset bid process that continues until no one offers a higher price for a period of at least ten days. He stated the kind or more informal back and forth process that might happen through a non-competitive sale to a non-profit for less than market value is not the procedure under state law that would be followed for an upset bid.

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Deputy City Manager Voorhees commented on the current zoning and what the process is for what is allowable as opposed to the issue of community input. He stated that all development does not require planning commission approval.

City Manager Baker stated he would be prepared to have another discussion with the neighborhood in terms of the efforts to deal with blight in communities.

Council Member Catotti stated the city was balancing neighborhood interests on the one hand and efforts to address the homeless population on the other. She stated if they would have had different information months ago they might have acted differently, but she believed they needed to face this today with the information they now have. She expressed concern that not moving forward would jeopardize the funding that Housing for New Hope needs to construct the needed housing for ten formally homeless individuals. Council Member Catotti referenced the amount of work Housing for New Hope has done regarding the proposed project and stated she supported the decision to sell the property to them. She stated Dominion Ministries owns the property next to the other property in question and they will move forward with their plans with or without city action tonight. Council Member Catotti stated she would be voting no on the motion to rescind and encouraged her colleagues to join her.

Council Member Woodard stated a comprehensive plan is needed for this area. He referenced basic services that other parts of the city take for granted which are not present in the Cleveland/Holloway area. Council Member Woodard stated he supported the long standing practice of partnering with nonprofits for affordable housing to further the ten year plan to end homelessness and he supported the policy adopted to offer surplus properties to these agencies. He stated he did have concerns about the obligation made to respond to the citizens who inquired about the two properties in the Cleveland/Holloway area and the city failing to meet this obligation. Also, he referenced the obligation to the agencies the city has contracted with. Council Member Woodard stated he would favor the manager's recommendation with two amendments: 1) If no qualifying bids are received, the two agencies have priority in purchasing these properties as part of our standard policy; and 2) If qualifying bids are received, the proceeds of the sale are to be directed to affordable housing efforts.

Mayor Bell stated this was not a vote against Housing for New Hope, Dominion Ministries or the community. He referenced the council spending a considerable amount of time in attempting to develop this policy. Mayor Bell stated he would be supporting the manager's recommendation and the amendments by Council Member Woodard.

Council Member Clement requested that the motion be severed. He stated he would be supporting to rescind the action for Dominion Ministries, but opposed the rescission with respect to Housing for New Hope because of the efforts to end homelessness in the community.

Mayor Pro Tempore Cole-McFadden stated she was saddened by the events at this point and it could certainly have been avoided if good records had been kept. She also commented on the ten year plan to end homelessness and suggested that a mapping be done of surplus properties to better work with communities around implementing the ten year plan to end homelessness.

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A motion was made by Council Member Stith to rescind the council action on June 4, 2007 for the sell of property at 218 N. Dillard to Dominion Ministries and to develop a master plan for the Cleveland/Holloway community. Council Member Woodard seconded the motion with the following amendments: If no qualifying bids are received, Dominion Ministries would have priority in purchasing the property as part of our standard policy [general public, nonprofits, back to general public]; and if qualifying bids are accepted by council, the proceeds of the sale will be directed to the city's affordable housing efforts.

Council Member Catotti requested that the motion be severed on developing a master plan for the area.

For clarification, City Attorney Blinder stated he did not hear in Council Member Stith's motion anything about authorizing the manager to sell the property by upset bid.

Council Member Stith agreed that the motion authorizing the manager to sell the property by upset bid should be a part of his motion. Council Member Woodard accepted authorizing the manager to sell the property by upset bid.

Council Member Stith raised concern with the amendments added by Council Member Woodard. He stated he felt this puts the council back into the same situation from an exclusive point of view by designating a favorite organization.

Council Member Woodard stated the city would be opening up the process for bids to everyone and asked if there are no qualifying bids why wouldn't the council go back and offer it. He referenced the policy [if no qualifying bids - we move to stage 2 which is nonprofits].

Council Member Stith raised concern with designating a specific nonprofit.

Council Member Woodard stated when the properties were offered to nonprofits, Dominion Ministries was the only nonprofit that entered the process on that property.

Council Member Stith stated he could not accept the amendment suggested by Council Member Woodard.

Council Member Brown stated he thought there was another offer from a nonprofit on the property located on Dillard Street.

**SUBSTITUTE MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to rescind the motions approved on June 4, 2007 as follows: 1) authorizing acceptance of the offer from Dominion Ministries, Inc. to purchase 218 N. Dillard Street; and 2) authorizing the City Manager to sell and the Mayor to convey this property; and

To authorize the City Manager to sell the property at 218 N. Dillard Street using the upset bid procedure, G. S. 160A-269, and if no qualifying bids are received, Dominion Ministries will have priority in purchasing property as part of the city's standard policy, and if qualifying bids are accepted by Council, the proceeds will be directed to the city's affordable housing efforts

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was approved at 9:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Clement and Woodard. Noes: Council Members Catotti and Stith. Absent: None.

A motion was made by Council Member Stith to rescind council action on June 4, 2007 authorizing acceptance of offer for 308 Elliott and 410-426 N. Roxboro to Housing for New Hope and to authorize the upset bid process. The motion was seconded by Council Member Clement.

For clarification, City Manager Baker stated there was only one qualifying bid for the Dillard Street property. He noted there was a separate bid from the Durham Crisis Response Center for no dollars for the Dillard Street property. Also, he stated that only one nonprofit bided on the parcels for 308 Elliott Street and 410-426 N. Roxboro Street.

**SUBSTITUTE MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to rescind the motions approved on June 4, 2007 as follows: (1) authorizing acceptance of offer from Housing for New Hope to purchase 308 Elliott Street and 410-426 N. Roxboro Street, and (2) authorizing the City Manager to sell and the Mayor to convey these properties; and

To authorize the City Manager to sell the properties at 308 Elliott Street and 410-426 N. Roxboro Street using the upset bid procedure, G.S. 160A-269, and if no qualifying bids are received, Housing for New Hope will have priority in purchasing properties as part of the city's standard policy, and if qualifying bids are accepted by Council, the proceeds will be directed to the city's affordable housing efforts was approved at 9:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Member Brown and Woodard. Noes: Council Members Catotti, Clement and Stith. Absent: None.

**MOTION** by Council Member Stith seconded by Council Member Woodard to direct the administration to come back to Council with a plan of action for developing a master plan and/or other appropriate instruments for the Cleveland/Holloway Street community was approved at 9:22 p.m. by the following vote: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

## **[PUBLIC HEARINGS]**

### **SUBJECT: 2007 GENERAL OBLIGATION BOND REFERENDUM**

To conduct a public hearing to receive public comments on the bond order;

To adopt the bond order entitled: "Bond Order Authorizing the Issuance of \$20,000,000.00 General Obligation Street and Sidewalk Bonds of the City of Durham, North Carolina;" and

To adopt the resolution setting a special bond referendum and directing publication of notice of a special bond referendum and notification of the Durham County Board of Electors.

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Mayor Bell announced this is a public hearing for the 2007 referendum bond order entitled: Streets and Sidewalk Bonds - \$20,000,000.

Finance Director Ken Pennoyer stated he has been advised by the City Clerk that the bond order which would be subject to a referendum that was introduced at a meeting of the City Council on August 6, 2007, was published on August 10, 2007, with notice that the City Council would hold a public hearing thereon on August 20, 2007 at 7:00 p.m. He further stated the City Clerk has filed in her office a statement of debt complying with provisions of the Local Government Bond Act, and such statement as filed showed the net indebtedness of the City to be 2.72% of the assessed valuation of property subject to taxation.

Mayor Bell noted the public hearing on the bond order that would be subject to a referendum is open and the City Council will hear anyone who wished to be heard on the questions of validity of the bond order and the advisability of issuing the bonds. The Mayor stated if needed the City Clerk will distribute the bond order and the published notice of hearing to all requesting them.

Mayor Bell opened the public hearing.

Victoria Peterson asked the City Council to ensure that local businesses, local citizens, and local subcontractors are employed on these jobs. She noted she requested several weeks ago a report on the work that is going on downtown now—how many minority contractors/sub-contractors have been hired to do the work downtown as well as how many local citizens have been employed.

James Chavis, Jr., of 801 Underwood Avenue #C, made comments why Council should vote no on the bond. He urged Council to vote no on the bond referendum because of high taxes. He raised a concern that he hasn't received any response to why the pavement of Dearborn Drive has not been completed.

City Manager Baker noted he would have to research the issue of paving Dearborn Drive.

Mayor Bell closed the public hearing.

Due to a procedural matter, Mayor Bell announced he opened the public hearing; however, the procedure calls for a motion to hold a public hearing on the General Obligation Street and Sidewalk Bond Order.

**MOTION** by Council Member Catotti seconded by Council Member Woodard to hold a public hearing on the General Obligation Street and Sidewalk Bond Order was approved at 9:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Mayor Bell announced he would like to have a motion to adopt without change or amendment and direct the City Clerk to publish a notice of adoption, as prescribed by The Local Government Bond Act, of the general obligation street and sidewalk bond order entitled, "Bond Order

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Authorizing the Issuance of \$20,000,000 General Obligation Street and Sidewalk Bonds of the City of Durham, North Carolina, which was introduced at the meeting of the City Council held on August 6, 2007.

**MOTION** by Council Member Clement seconded by Council Member Woodard to adopt without change or amendment and direct the City Clerk to publish a notice of adoption, as prescribed by The Local Government Bond Act, of the general obligation street and sidewalk bond order entitled, "Bond Order Authorizing the Issuance of \$20,000,000 General Obligation Street and Sidewalk Bonds of the City of Durham, North Carolina, which was introduced at the meeting of the City Council held on August 6, 2007 was approved at 9:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13473**

Council Member Stith expressed concerns from the community relating to the detail and process for choosing the streets to be paved/resurfaced and sidewalks. He asked the City Manager if there would be a listing of streets that will be prepared before this goes on the ballot and will there be a review of the model used to designate what streets are chosen.

City Manager Baker stated he could share the plan/methodology for choosing streets with the community and could provide additional information at a Work Session on whether a listing of streets/sidewalks could be generated.

Council Member Catotti noted a key part for the marketing efforts would be to begin with the streets that are in poor condition and to inform the public of the 2005 bond progress.

City Manager Baker noted staff has developed a draft proposal of educating the community in terms of what has been done to include a listing of all streets that were resurfaced with the 2005 bond money.

Deputy City Manager Voorhees mentioned the dirt street paving is a chronological request petition process on a first come, first served basis.

**MOTION** by Council Member Woodard seconded by Council Member Clement to adopt the resolution setting a special bond referendum and directing publication of notice of a special bond referendum and notification of the Durham County Board of Electors was approved at 9:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9489**

It was indicated that the City Manager will report back at a Work Session on the process for streets before this goes on the ballot.

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**[ITEMS PULLED FROM CONSENT AGENDA]**

**SUBJECT: ARCHITECTURAL AND ENGINEERING SERVICES FOR PHASE III OF EASTWAY VILLAGE - NEIGHBORING CONCEPTS, PLLC**

James Chavis, of 801 Underwood Avenue #C, asked Council when will original residents who left the Barnes Avenue area and have been approved for homeownership be considered for homes in the next stage of Eastway Village. Also, he asked the City Manager and director to address this issue at the PAC 1 meeting in October.

Mayor Bell noted this item will be addressed at a Work Session.

Council Member Stith asked for clarification on the GS 143-64.31.

**MOTION** by Council Member Catotti seconded by Council Member Brown to adopt a resolution, pursuant to N.C. General Statue Sec.143-64.31, exempting the Eastway Village development from N.C. General Statue Sec. 143-54.31;

To authorize the City Manager to negotiate and execute a contract with Neighboring Concepts, PLLC to provide architectural and engineering services for Phase III of the Eastway Village development in an amount not to exceed \$100,000.00; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 9:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9490**

**SUBJECT: CITY OF DURHAM EMPLOYMENT AND TRAINING 2006-2008 GRANT PROJECT ORDINANCE SUPERSEDING GRANT PROJECT ORDINANCE #13458**

Victoria Peterson expressed concerns about how the workforce development program is being conducted, how monies are being utilized and with board members not attending meetings.

**MOTION** by Council Member Clement seconded by Council Member Woodard to authorize the City Manager to accept the "Employment and Training" Grant by executing the grant documents; and

To adopt the "Employment and Training" Grant Project Ordinance FY 2006-2008 in the amount of \$2,110,356.00, superseding Grant Project Ordinance #13458 was approved at 9:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.



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**Ordinance #13467**

**SUBJECT: APPROVAL OF DESIGN, OPERATIONS AND CONSTRUCTION  
MANAGER AT RISK CONTRACTS FOR RENOVATION OF THE  
DURHAM ATHLETIC PARK - D'AGOSTINO IZZO QUIRK  
ARCHITECTS - STRUEVER BROS. ECCLES & ROUSE, INC. - MINOR  
LEAGUE MANAGER, LLC**

Once a construction company has been selected, Victoria Peterson asked that they be encouraged to hire local legal citizens.

**MOTION** by Council Member Woodard seconded by Council Member Catotti to adopt an ordinance amending the General Capital Improvement Project Ordinance, Fiscal year 2007-2008, the same being Ordinance #13428 for the purpose of increasing the total appropriation for the design and construction of renovations to the Durham Athletic Park by \$1,000,000.00;

To authorize the City Manager to enter into an agreement with D'Agostino Izzo Quirk Architects in an amount not to exceed \$328,818.00;

To establish a project contingency in the amount of \$35,000.00;

To authorize the City Manager to negotiate and execute amendments to D'Agostino Izzo Quirk Architects, Inc. agreement for the Durham Athletic Park provided the project cost does not exceed the project ordinance;

To authorize the City Manager to execute the Agreement for CMAR Services for the Durham Athletic Park and Amendment 1 for Preconstruction Phase Services to the Agreement CMAR Services with Struever Bros. Eccles & Rouse, Inc. in the amount of \$85,000.00;

To authorize the City Manager to execute an Operating Agreement with the Minor League Manager, LLC for management of the Durham Athletic Park; and

To authorize the City Manager to make changes to the agreements prior to execution provided the changes do not increase the compensation to be paid by the City and do not decrease the services to be provided to the City was approved at 9:55 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13468**

At this time during the meeting, Council Member Clement recognized Equal Opportunity Equity Assurance Director Deborah Giles and her department for being named Minority Business Advocate of the Year by the Department of Commerce.

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Equal Opportunity Equity Assurance Director Deborah Giles made comments thanking the selection committee and Council for their ongoing support. She shared that the Atlanta region will be nominating them for a national award.

**SUBJECT: U.S. DEPARTMENT OF JUSTICE COMPREHENSIVE ANTI-GANG INITIATIVE (CAGI) GRANT**

Council Member Clement spoke in support of this item, but expressed concern with the process that Raleigh will be receiving half of the grant.

Victoria Peterson expressed concern that none of the African American organizations will be receiving any of these funds.

City Manager Baker noted this item is not for an awarding of funds.

Jesse Burwell, of the Police Department, noted Ms. Peterson is referencing the pre-application which does not have a lot of detail in it; however, more names will be added to the draft.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to accept the U.S. Department of Justice Comprehensive Anti-Gang Initiative (CAGI) Grant by executing the grant documents;

To adopt the CAGI Grant Project Ordinance in the amount of \$1,250,000.00;

To authorize the City Manager to execute the grant agreement for the U.S. Department of Justice Comprehensive Anti-Gang Initiative (CAGI) Grant; and

To authorize the addition of a full-time position (FTE) called the Anti-Gang Program Administrator, which will be funded by the CAGI Grant was approved at 10:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13472**

**[CLOSED SESSION – 10:03 p.m.]**

A motion was made earlier in the meeting to go into a closed session after the meeting regarding an attorney-client consultation pursuant to GS 143-318-11(a) (3).

**[OPEN SESSION]**

**MOTION** by Council Member Woodard seconded by Council Member Clement to go into open session was approved at 11:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro

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Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard.  
Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 11:05 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk